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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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GREGORY WRIGHT, 06A1445,

Plaintiff,

v.

JAMES ESGROW,

Defendant.

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DECISION & ORDER

10-CV-6502P

By order dated September 21, 2010, fourteen months ago, the Court granted plaintiff permission to proceed *in forma pauperis*, and directed the U.S. Marshal to serve the defendants. The U.S. Marshal Service attempted to serve the single-named defendant by mail on September 23, 2010. Service was returned unexecuted with a notation “acknowledgment never received at USMO.” (Docket # 4).

The Court made inquiries of the Attorney General in order to ascertain the proper address for the defendant pursuant to *Valentin v. Dinkins*, 121 F.3d 72 (2d. Cir. 1997) (per curiam). On September 23, 2011, an Assistant Attorney General informed the Court that the defendant could be served at Elmira Correctional Facility. On September 26, 2011, the Clerk of Court reissued the summons for the defendant at Elmira Correctional Facility. To date, the U.S. Marshal’s Service has received no acknowledgment of service.

Although the Court could order the U.S. Marshal’s Service to serve the complaint by personal service, such expense appears unwarranted. Absence of prejudice to the plaintiff

cannot be presumed where service has been attempted twice, including at a verified address, and the complaint remains unserved after fourteen months.

The New York State Attorney General is hereby requested to ascertain the impediments to service of the defendant at an address verified by the Attorney General's Office. Such information shall be provided by no later than **November 22, 2011** to the Pro Se Office, 304 U.S. Courthouse, 68 Court Street, Buffalo, New York 14202. The Clerk of Court is directed to mail a copy of this Order and the amended complaint to the Assistant Attorney General in Charge, 144 Exchange Boulevard, Suite 200, Rochester, New York 14614.

**IT IS SO ORDERED.**

*s/Marian W. Payson*

MARIAN W. PAYSON  
United States Magistrate Judge

Dated: Rochester, New York  
November 9, 2011